

CALIFORNIA CODE OF REGULATIONS
TITLE 2. ADMINISTRATION
ARTICLE 29. SUBSTANCE ABUSE

NOTICE OF PROPOSED REGULATORY ACTION

The Department of Personnel Administration (DPA) proposes to take the regulatory action described below after considering all comments, objections, or recommendations regarding the proposed regulatory action.

PUBLIC HEARING

A public hearing will be held from 1:00 p.m. to 4:00 p.m., October 19, 2010, at the Department of Personnel Administration, 1800 15th Street, in the Benefits Conference Room, Sacramento, CA, 95811. This room is wheelchair accessible. At the hearing, any persons may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. DPA, requests but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to DPA. The written comment period closes at 5:00 p.m., October 19, 2010. DPA will consider only comments received at DPA by that time. Please submit comments to the agency contact person below:

Department of Personnel Administration
Attn: Sydney Perry
1515 "S" Street, North Building, Suite 400
Sacramento, CA 95811
Phone (916) 324-2763
sydperry@dpa.ca.gov

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED
REGULATIONS/CONTACT PERSONS

DPA will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulations and the Initial Statement of Reasons. Copies may be obtained by contacting Sydney Perry at the address or phone number listed above. The back-up contact person for this action is:

Julie Lowe
Program Assistant
Department of Personnel Administration
1515 "S" Street, North Building, Suite 400
Sacramento, CA 95811
Phone (916) 324-9386
julielowe@dpa.ca.gov

AVAILABILITY OF CHANGES

After holding the hearing and considering all timely and relevant comments received, DPA may adopt the proposed regulations substantially as described in this notice. If DPA makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least 15 days before adopting the regulations as revised. Please send requests for copies of any modified regulations to the attention of Sydney Perry at the address indicated above. DPA will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Sydney Perry at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Regulatory Action, the Initial Statement of Reasons, and the text of the regulations in ~~strikeout~~ format, as well as the Final Statement of Reasons once it is completed, can be accessed through DPA's website at www.dpa.ca.gov.

PROPOSED REGULATORY ACTION

Notice is hereby given that DPA intends to amend Section 599.960, General Policy, Section 599.963, Testing Process and Standards and Section 599.965, Medical Review Officer, Subchapter 1, Chapter 3 of Title 2 of the California Code of Regulations.

DPA has prepared a written explanation of the reasons for amending Article 29 by proposing amendments to Sections 599.960, 599.961 and 599.965.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW AMENDMENT TO TITLE 2, ARTICLE 29, SUBSTANCE ABUSE

Section 599.960.	GENERAL POLICY
Section 599.963.	TESTING PROCESS AND STANDARDS
Section 599.965.	MEDICAL REVIEW OFFICER

Regulations in this article are for the purpose of helping to ensure that the State workforce is free from the effects of drug and alcohol abuse. Current regulations provide for substance testing of employees in designated sensitive positions on a reasonable suspicion basis and random drug testing for excluded and exempt peace officer employees.

The proposed amendments to the regulations in this article would incorporate the drug and alcohol testing procedures in the Federal Motor Carrier Safety Act (FMCSA), Title 49, Part 40 regulations and the Substance Abuse Mental Health Services Administration (SAMHSA) Mandatory Guidelines for Federal Workplace Drug Testing Programs into the State's drug and alcohol testing programs.

FEDERAL REGULATIONS

There are no existing federal regulations, statutes, or requirements that cover the purpose of this proposed action.

SMALL BUSINESS

The regulations covered by this proposal have no impact on small business because they apply only to California state employees.

LOCAL AGENCY AND SCHOOL DISTRICT MANDATE

DPA has determined that since these rules pertain only to State employees, they do not impose a mandate on local agencies or school districts.

COSTS OR SAVINGS

DPA has determined that this proposal does not:

- * Cause significant cost for local agencies or school districts requiring reimbursement pursuant to Government Code Sections 17500 - 17630.
- * Impose nondiscretionary costs to or savings on local agencies.
- * Cause costs or savings in Federal funding to the State.

There is a minimal administrative cost to the State, as a reasonable suspicion and random drug testing program for excluded and exempt peace officer employees is currently in place.

BUSINESS/PRIVATE PERSON IMPACT

DPA has made an initial determination that this proposed rulemaking action does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

In addition, this rulemaking will not:

- * Create or eliminate jobs in California.
- * Create, expand, or eliminate businesses in California.

CONSIDERATION OF ALTERNATIVES

DPA must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to the affected private persons than the proposed action.

HOUSING IMPACT

This rulemaking action will not affect housing costs.

AUTHORITY AND REFERENCE

Government Code Section 19815.4(d) authorizes DPA to adopt, amend, and repeal rules pertaining to the administration of the State's personnel system which includes Title 2, Article 29, Substance Abuse, California Code of Regulations.

Authority Cited: Sections 19572, 19816, and 19820 Government Code.

Reference: Section 19261, Government Code.